

### **REMARKS**

Claims 1-24 are pending in the Application, and all have been rejected in the Office Action. Claims 1 and 12 are amended solely for clarification. Support for claims 1 and 12 can be found at least in Figs. 1, 2, and 4, and in paragraphs 42, 43, 46, 51-54, 55, 58, and 59.

Claims 1, 12, and 21-24 are independent claims. Claims 2-11 and 13-20 depend, respectively, from independent claims 1 and 12.

The Applicant respectfully requests reconsideration of the pending claims 1-24, in light of the following remarks.

### **Rejection of Claims Under 35 U.S.C. §102**

Claims 1-24 were rejected under 35 U.S.C. §102(a) as being anticipated by Patrick J. O'Neill (WO 02/41147 A1, hereinafter "O'Neill"). The Applicant respectfully traverses the rejection.

With regard to the anticipation rejections, MPEP 2131 states, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP 2131 also states, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

### **Rejection of claims 1-11**

The Office Action rejected claim 1 as being anticipated by O'Neill. The Applicant respectfully traverses this rejection. Claim 1 is amended solely for clarification. The Applicant respectfully submits that O'Neill does not teach or suggest all of the limitations disclosed in amended claim 1.

Claim 1 is recited below:

A method for updating software in an electronic device, the method comprising:

**generating an update package** for updating at least one software application, the update package being generated **based upon difference information between the at least one software application and at least one reference software installed on the electronic device;**

updating the at least one software application using the update package and the reference software; and

wherein the updating leaves the at least one reference software unchanged.

The Applicant respectfully submits that O'Neill does not teach or suggest at least the portion of claim 1 amended for clarity, which states, "generating an update package for updating at least one software application, the update package being generated based upon difference information between the at least one software application and at least one reference software installed on the electronic device."

The Office Action asserts that "identity information ... including type, model, and/or make of the device, as well as the version of operational software or applications currently in use by the client device," disclosed in O'Neill (page 12, lines 1-4) is equivalent to "reference software" in the Applicant's claim 1. Page 3.

The Applicant respectfully disagrees. For example, O'Neill states that "[t]he system further comprises an update generator that performs a version comparison between the first code version and the second code version to identify pattern differences between the first plurality of data sequences and the second plurality of data sequences, ... and thereafter forming the update package using the transformation instructions." Column 4, lines 32-42. See also column 4, lines 2-14, 55-62; column 8, lines 32-37; column 14, lines 59-63; column 17, lines 11-19.

Accordingly, the Applicant respectfully submits O'Neill does not teach "the update package being generated based upon differences between the at least one software application and identity information ... including type, model, and/or make of the device, as well as the version of operational software or applications currently in use by the client device, installed on the electronic device."

However, even if the Applicant were to assume *arguendo* that "identity information ... including type, model, and/or make of the device, as well as the version

of operational software or applications currently in use by the client device" is "reference software" (the Applicant does not agree that "identity information" is "reference software"), the Applicant respectfully submits that identifying pattern differences between a software application and the "identity information ... including type, model, and/or make of the device, as well as the version of operational software or applications currently in use by the client device" would be useless for updating the software application.

Additionally, the Applicant was not able to find in O'Neill a disclosure of "generating an update package for updating at least one software application, the update package being generated based upon differences between the at least one software application and at least one reference software installed on the electronic device."

Accordingly, the Applicant respectfully submits that claim 1 is not anticipated by O'Neill, and therefore is allowable. Furthermore, since claims 2-11 depend from the independent claim 1, the Applicant also respectfully submits that claims 2-11 are also allowable.

### **Rejection of claims 12 - 20**

The Office Action rejected claim 12 as being anticipated by O'Neill. The Applicant respectfully traverses this rejection. Claim 12 is amended solely for clarification. The Applicant respectfully submits that O'Neill does not teach or suggest all of the limitations disclosed in amended claim 12.

Claim 12 is recited below:

A system for updating software, the system comprising:

an electronic device capable of having software installed thereon;

a software delivery device for receiving and installing a reference software to the electronic device if the electronic device does not have the reference software previously installed; and

the software delivery device receiving and delivering at least one update package to the electronic device, **wherein the at least one**

**update package is based on difference information between at least one application software and the reference software**, and the reference software facilitates, using the at least one update package, at least one update to the application software installed on the electronic device, and wherein the updating leaves the reference software unchanged.

The Applicant respectfully submits that O'Neill does not teach or suggest at least the portion of claim 12 amended for clarity, which states, "the software delivery device receiving and delivering at least one update package to the electronic device, **wherein the at least one update package is based on difference information between at least one application software and the reference software.**"

With respect to claim 12, the Office Action again recites O'Neill (page 12, lines 1-4) to assert that "identity information" is equivalent to "reference software" in the Applicant's claim 12. Page 11.

The Applicant respectfully disagrees for at least the reasons provided above with respect to claim 1.

The Applicant respectfully submits that O'Neill does not teach or suggest, at least the portion of claim 12 amended for clarity, which states, "the software delivery device receiving and delivering at least one update package to the electronic device, **wherein the at least one update package is based on difference information between at least one application software and the reference software.**"

Accordingly, the Applicant respectfully submits that claim 12 is not anticipated by O'Neill, and therefore is allowable. Furthermore, since claims 13-20 depend from the independent claim 12, the Applicant also respectfully submits that claims 13-20 are also allowable.

### **Rejection of claim 21**

The Office Action rejected claim 21 as being anticipated by O'Neill. The Applicant respectfully traverses this rejection. The Applicant respectfully submits that O'Neill does not teach or suggest all of the limitations disclosed in claim 21.

Claim 21 is recited below:

A method for updating software in an electronic device, the method comprising:

generating a first update package for updating at least one software application, the first update package being generated based upon difference information between first and second software versions;

generating a second update package for updating the at least one software application, the second update package being generated based upon difference information between first and third software versions;

generating a **third update package** for updating the at least one software application, the third update package being generated based upon difference information between the **first and second update packages**; and

updating the at least one software application using the third update package.

The Applicant respectfully submits that O'Neill does not teach or suggest at least the portion of claim 21 that states "generating a third update package for updating the at least one software application, the third update package being generated based upon difference information between the first and second update packages."

The Office Action, however, cites O'Neill (page 12, 1st paragraph, lines 6-14) in support of its contention that O'Neill discloses "generating a third update package for updating the at least one software application, the third update package being generated based upon difference information between the first and second update packages."

Page 12, lines 6-14 of O'Neill are quoted below:

Alternatively, the update generator **102** may be equipped with the ability to generate and provide a plurality of update packages **10** , which reference a plurality of operational software versions or applications, prior to receiving the identity information **113** . In this embodiment, the update generator **102** may retrieve from memory or storage an archived version of the desired update package **110 a** . In addition, the update generator **102** may create a **version manifest, which comprises a list of archived update packages 110 including operational software version information** for a wide range of particular client devices **104** .

Emphasis added.

The Applicant respectfully submits that generating "**a list of archived update packages 110 including operational software version information**" is not the same as "**generating a third update package** for updating the at least one software application,

the third update package being generated **based upon difference information between the first and second update packages.**"

The Applicant respectfully submits that "updating the at least one software application using the third update package" cannot be performed if the third update package is **"a list of archived update packages 110** including operational software version information."

Accordingly, the Applicant respectfully submits that claim 21 is not anticipated by O'Neill, and therefore is allowable.

### **Rejection of claim 22**

The Office Action rejected claim 22 as being anticipated by O'Neill. The Applicant respectfully traverses this rejection. The Applicant respectfully submits that O'Neill does not teach or suggest all of the limitations disclosed in claim 22.

Claim 22 is recited below:

A method for updating software in an electronic device, the method comprising:

**generating a first update package** for updating at least one software application, the first update package being generated **based upon difference information between a first software version and a reference software** corresponding to the at least one software application;

**generating a second update package** for updating the at least one software application, the second update package being generated **based upon difference information a second software version and the reference software** corresponding to the at least one software application;

**generating a third update package** for updating the at least one software application, the third update package being generated **based upon difference information between the first and second update packages**; and

**updating the at least one software application using the third update package.**

Emphasis added.

With respect to claim 22, the Office Action again recites O'Neill (page 12, lines 1-4) to assert that "identity information" is equivalent to "reference software" in the Applicant's claim 22. Page 11.

The Applicant respectfully disagrees for at least the reasons provided above with respect to claim 1.

Accordingly, as initially presented above with respect to claim 1, the Applicant respectfully submits that O'Neill does not disclose at least "generating a first update package for updating at least one software application, the first update package being generated based upon difference information between a first software version and a reference software corresponding to the at least one software application; generating a second update package for updating the at least one software application, the second update package being generated based upon difference information a second software version and the reference software corresponding to the at least one software application."

Furthermore, the Applicant respectfully submits that O'Neill does not teach or suggest at least the portion of claim 22 that states "generating a third update package for updating the at least one software application, **the third update package being generated based upon difference information between the first and second update packages.**"

As cited with claim 21, the Office Action again cites O'Neill (page 12, 1st paragraph, lines 6-14) in support of its contention that O'Neill does disclose "generating a third update package for updating the at least one software application, the third update package being generated based upon difference information between the first and second update packages."

As stated above with respect to claim 21, the Applicant reiterates that generating "a list of archived update packages 110 including operational software version information" is not the same as "the third update package being generated based upon difference information between the first and second update packages."

The Applicant respectfully submits that "updating the at least one software application using the third update package" cannot be performed if the third update package is **"a list of archived update packages 110** including operational software version information."

Accordingly, for at least the reasons stated above, the Applicant respectfully submits that claim 22 is not anticipated by O'Neill, and therefore is allowable.

### Rejection of claim 23

The Office Action rejected claim 23 as being anticipated by O'Neill. The Applicant respectfully traverses this rejection. The Applicant respectfully submits that O'Neill does not teach or suggest all of the limitations disclosed in claim 23.

Claim 23 is recited below:

A system for updating software, the system comprising:  
an electronic device capable of having software installed thereon;  
a first update package generator for generating update packages based upon difference information between different versions of software;  
**a second update package generator for generating update packages based upon difference information between different update packages; and**  
a software delivery device for **delivering at least one update package generated based upon difference information between different update packages to the electronic device.**

Emphasis added.

The Office Action cites O'Neill (page 5, 1st paragraph) in support that O'Neill discloses "a second update package generator for generating update packages based upon difference information between different update packages."

Page 5, 1st paragraph of O'Neill is quoted below:

[In one embodiment the invention comprises a system for updating a plurality of distributed electronic devices with **an updated operating code comprising a first plurality of digital information sequences** wherein each of the plurality of electronic devices include a **resident operating code comprising a second plurality of digital information sequences** that are stored within the electronic device. The system further comprises **an update generator that compares an image of the first plurality of**



**digital information sequences comprising the updated operating code to an image of the second plurality of digital information sequences comprising the resident operating code and identifies differences between of the updated operating code and the resident operating code and thereafter generates an update package comprising an instruction set which specifies how to generate the updated operating code utilizing at least a portion of the second plurality of digital information sequences of the resident operating code.** The system further comprises a distribution system that distributes the update package to the electronic devices such that the update package is received by the electronic devices and stored therein. The system further comprises a plurality of client modules that are respectively resident on each of the plurality of electronic devices, wherein the plurality of client modules access the distribution system and receive the update package and wherein the instruction set of the update package is executed by the client modules so as to generate the updated operating code by utilizing at least a portion of the second plurality of digital information sequences from the resident operating code.

Emphasis added.

The Applicant respectfully submits that the cited portion of O'Neill discloses an "update package" that is generated by "compar[ing] an image of the first plurality of digital information sequences comprising the **updated operating code** to an image of the second plurality of digital information sequences comprising the **resident operating code.**"

That is, O'Neill "identifies differences between [] **the updated operating code and the resident operating code** and **generates an update package** comprising an instruction set which specifies how to generate the updated operating code utilizing at least a portion of the second plurality of digital information sequences of the resident operating code."

This is not the same as "generating **update packages** based upon difference information between **different update packages.**"

The Office Action also cites O'Neill (page 11, lines 2-13) in support of its contention that O'Neill discloses "a software delivery device for **delivering at least one update package generated based upon difference information between different update packages to the electronic device.**"

Page 11, lines 2-13 of O'Neill are quoted below:

FIG. 1A illustrates one embodiment of an update distribution system 100. The update distribution system 100 includes an update generator 102 and a client device 104. In one embodiment, the update generator 102 receives a **first code version 106**, such as an old version of a software application, and a **second code version 108**, such as a new version of a software application. The update generator 102 produces an update package 110 comprising an instruction set which represents a plurality of operations that are desirably used to transform the first original code version 106 into the second updated code version. The update package 110 is then transferred to a client device 104 via a communications medium 112. Viable choices for communications media 112 may include hardwired media, removable storage media, wireless media, volatile and non-volatile memory based media, and the Internet.

Emphasis added.

Accordingly, the Applicant respectfully submits that O'Neill discloses generating **"an update package 110 comprising an instruction set which represents a plurality of operations that are desirably used to transform the first original code version 106 into the second updated code version,"** where the **"first code version 106 [is] as an old version of a software application and a second code version 108 [is] a new version of a software application."**

This is not the same as "generating **update packages** based upon difference information between **different update packages.**"

Accordingly, the Applicant respectfully submits that O'Neill does not disclose "generating **update packages** based upon difference information between **different update packages.**"

Accordingly, the Applicant respectfully submits that claim 23 is not anticipated by O'Neill, and therefore is allowable.

#### **Rejection of claim 24**

The Office Action rejected claim 24 as being anticipated by O'Neill. The Applicant respectfully traverses this rejection. The Applicant respectfully submits that O'Neill does not teach or suggest all of the limitations disclosed in claim 24.

Claim 24 is recited below:

A system for updating software, the system comprising:  
an electronic device capable of having software installed thereon;  
a first update package generator for **generating update packages** based upon difference information between a version of software and a **reference software** corresponding to at least one software application;  
a second update package generator for **generating update packages** based upon difference information between **different update packages**; and  
a software delivery device for delivering at least one **update package** generated based upon difference information between **different update packages** to the electronic device.

Emphasis added.

As with rejection of claim 1, the Office Action cites O'Neill (page 12, lines 1-4) in asserting that "identity information" is the same as "reference software" recited in claims 1 and 24.

Accordingly, for reasons presented above with respect to claim 1, the Applicant respectfully submits that O'Neill does not disclose at least "generating **update packages** based upon **difference information** between a version of software and a **reference software** corresponding to at least one software application."

Furthermore, the Applicant respectfully submits that O'Neill does not teach or suggest at least the portion of claim 24 that states "a second update package generator for generating update packages based upon difference information between different update packages."

As cited with claims 21 and 23, the Office Action again cites O'Neill (page 12, 1st paragraph, lines 6-14) in support of its contention that O'Neill discloses "a second update package generator for **generating update packages** based upon difference information between **different update packages**; and a software delivery device for delivering at least one **update package** generated based upon difference information between **different update packages** to the electronic device."

For at least the reasons stated above with respect to claims 21 and 23, the Applicant respectfully submits that O'Neill does not disclose "a second update package generator for **generating update packages** based upon difference information between **different update packages**," and, hence, cannot disclose "a software delivery device for delivering at least one **update package** generated based upon difference information between **different update packages** to the electronic device."

Accordingly, for at least the reasons stated above, the Applicant respectfully submits that claim 24 is not anticipated by O'Neill, and therefore is allowable.

### **Conclusion**

In general, the Office Action makes various statements regarding claims 1-24 and the cited references that are now moot in light of the above. Thus, Applicant will not address such statements at the present time. However, Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicant believes that all of pending claims 1-24 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicant invites the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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